

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE SUBCOMMITTEE ON NATIONAL PARKS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 128, TO AMEND THE CACHE LA PODRE RIVER CORRIDOR ACT TO DESIGNATE A NEW MANAGEMENT ENTITY, MAKE CERTAIN TECHNICAL AND CONFORMING AMENDMENTS, ENHANCE PRIVATE PROPERTY PROTECTIONS, AND FOR OTHER PURPOSES.

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Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 128, a bill to amend the Cache la Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, and for other purposes.

The Department has no objection to S. 128 if amended as described in this testimony to make the bill similar to other recent national heritage area bills. The Administration usually does not support extending the time period for financial assistance to national heritage areas, but is willing to accept an extension in this case, given the statutory problems in establishing a management entity.

The Cache la Poudre River Corridor was established on October 19, 1996 by P.L. 104-323. The National Park Service (NPS), working with former Senator Hank Brown and members of the community, completed a resource study that focused on the area's history of water and water rights. Water rights continue to be an important issue in the west, and the Cache la Poudre River Corridor provides a unique opportunity to tell the story of the natural history of 19th century settlement, irrigation, and establishment of water rights in an arid environment.

S. 128 would correct a number of technical errors, provide a more accurate definition of the national heritage area's boundary, change the management of the heritage area to a private not-for-profit organization from a federal commission, include the proper spelling of the Cache la Poudre River, and change the name of the area to more accurately reflect the purpose for which the area was established.

Congress established the Cache la Poudre River heritage area in 1996, however, it has never been fully operational due to concerns from the Department of Justice over language used in the law to appoint members to the operating commission that potentially conflict with the appointments clause of the Constitution. The NPS and members of the Colorado delegation have been working for several years to reach an agreement on legislative language that meets the concerns laid out by the Department of Justice, preserves the regional administration of the area, and protects private property rights. S. 128 meets these goals.

The most significant change in S. 128 is the management entity. It replaces a federally appointed advisory commission with a local 501(c)(3) organization, the Poudre Heritage Alliance.

Established in 2002, this group has continued to lead the program, meeting regularly with the public, conducting research and developing the elements of the required management plan. The Alliance represents a broad spectrum of the area's residents, organizations, and agencies that were involved in the planning for the National Heritage Area.

The NPS exercises limited oversight of national heritage areas. The current management of those areas is the responsibility of qualified management entities, with NPS providing financial and technical assistance to help with visitor education and planning if needed. Cache la Poudre, however, has received limited financial assistance, because of the problems in establishing a qualified management entity. NPS has provided some planning and research assistance over the past 10 years.

S. 128 would extend the authority to receive financial assistance until 10 years after enactment of this bill. In most cases, that would raise concerns about postponing the time when the heritage area becomes self-sufficient. In this case, however, the previous delays in designating a qualified management entity have significantly limited both the progress in establishing the heritage area and the financial assistance provided. Over 10 years, NPS has provided approximately \$340,000 in financial assistance to the Cache la Poudre River heritage area, which is less than one-tenth of what was provided to other heritage areas established at the same time.

The bill also authorizes the development of a management plan within three years of enactment and authorizes the use of federal funds to develop and implement that plan. If the plan is not submitted within three years of enactment of this Act, the Heritage Area becomes ineligible for federal funding until a plan is submitted to the Secretary. Additionally, the Secretary may, at the request of the management entity, provide technical assistance and enter into cooperative agreements with other public and private entities.

S. 128 contains safeguards to protect private property, including a prohibition on the use of federal funds to acquire property. The bill proposes no new restrictions with regard to private property rights and does not convey any water right or water restrictions to the federal government.

S. 128 would also correct a number of errors in the original legislation. The first correction would be the proper spelling of the river, with a lower case “l” for Cache la Poudre. It replaces the original name of the heritage area from Cache La Poudre River Corridor to Cache la Poudre River National Heritage Area. It also replaces a listing of flood plain map references with a map developed specifically for the area.

It appears that the amendments that the bill suggests to P. L. 104-323 result in contradictory language regarding land acquisition within the heritage area. We would like to work with the Subcommittee to clarify this language and make it similar to other heritage areas.

We also suggest including an additional requirement for an evaluation to be conducted by the Secretary, three years prior to the cessation of federal funding under this act. The evaluation would examine the accomplishments of the heritage area in meeting the goals of the management plan, analyze the leveraging and impact of investments to the heritage area, identify the critical components of the management structure and sustainability of the heritage area, and recommend what future role, if any, the NPS should have with respect to the heritage area.

Lastly, legislative language regarding National Heritage Areas has evolved since 1996 when the Cache la Poudre Heritage Corridor was enacted. We recommend amending the bill further to make the amended act similar to other, more recent heritage area legislation. We would be happy to work with the Subcommittee to develop these amendments.

Mr. Chairman that concludes my prepared remarks. I would be pleased to answer any questions you or other members of the Subcommittee may have.